

EXHIBIT 1

INTRODUCTION

Respondent David Ianacone was a member of the Medical Board of California, Diversion Evaluation Committee, for the California Department of Consumer Affairs (the “Department”). As a member of the Diversion Evaluation Committee (the “DEC”), Respondent was a designated employee under the Department’s conflict of interest code.

As required by the Political Reform Act (the “Act”)¹ and the Department’s conflict of interest code, each designated employee of the DEC is required to file a statement of economic interests (“SEI”) within 30 days of assuming office. On the assuming office SEI, the designated employee must disclose his or her reportable investments, business positions, and interests in real property held on, and income received during, the twelve months before the date of assuming office.

In this matter, Respondent failed to file an assuming office SEI by the May 25, 2001 due date, and failed to properly disclose reportable investment interests on the assuming office SEI that he filed late, in violation of section 87300 of the Government Code.

For the purposes of this Stipulation, Respondent’s violations are stated as follows:

COUNT 1: As a designated employee of the Department of Consumer Affairs, Medical Board of California, Diversion Evaluation Committee, David Ianacone failed to file an assuming office statement of economic interests by May 25, 2001, in violation of section 87300 of the Government Code.

COUNT 2: As a designated employee of the Department of Consumer Affairs, Medical Board of California, Diversion Evaluation Committee, David Ianacone failed to disclose reportable investment interests on the assuming office statement of economic interests that he belatedly filed on December 26, 2001, in violation of section 87300 of the Government code.

¹The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in section 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. The agency's conflict of interest code must specifically designate the employees of the agency who are required to file SEI's, disclosing their reportable investments, business positions, interests in real property, and sources of income.

Section 87302, subdivision (b) provides that under an agency's conflict of interest code, each designated employee of the agency must be required to file an SEI within 30 days of assuming office, disclosing his or her reportable investments, business positions, and interests in real property held on, and income received during, the twelve months before the date of assuming office.

Under section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

SUMMARY OF THE FACTS

COUNT 1

Respondent David Ianacone was appointed, on April 24, 2001, to serve as a member of the Department of Consumer Affairs, Medical Board of California, Diversion Evaluation Committee. Serving in that capacity, Respondent was a designated employee of the Department, as specified in the Department's conflict of interest code, and was assigned a "Category 9" reporting designation. Respondent was thereby required to file an assuming office SEI by May 25, 2001, thirty (30) days after assuming office. Respondent failed to file an assuming office SEI by the May 25, 2001 due date, in violation of section 87300.

On September 28, 2001, Staff Services Analyst Emily Bowden, of the FPPC's SEI Unit, sent a blank SEI form to Respondent, along with a letter explaining that the form was to be completed and returned for filing with the Department of Consumer Affairs. Ms. Bowden subsequently sent a second letter to Respondent, on November 5, 2001, noting that no SEI had been submitted, and instructing Respondent to submit a completed SEI directly to the FPPC within ten days. When the SEI was not filed in response to this second letter, the matter was referred to the FPPC's Enforcement Division.

On December 10, 2001, Investigator Dan Schek of the Enforcement Division spoke by telephone with Respondent's wife, and explained the need for Respondent to return the call. On December 11, 2001, Respondent called Investigator Schek. By the conclusion of that conversation, Respondent agreed to submit his assuming office SEI immediately.

Thereafter, on December 26, 2001, Respondent filed his delinquent assuming office SEI, seven months after it was due.

COUNT 2

As a designated employee of the Department of Consumer Affairs, Medical Board of California, Diversion Evaluation Committee, Respondent was assigned a “Category 9” reporting designation by the Department’s conflict of interest code. This required him to report his interests in real property, investments, and business positions in, and any income that he received from, any business entity that, within the previous two years, was of the type that has contracted with the official’s or employee’s immediate employer to provide goods or services. Specifically, the information required to be disclosed regarding investments was: the nature of the investment, the fair market value of the investment, and the date the investment was acquired or disposed, if applicable.

On December 26, 2001, Respondent filed an assuming office SEI, to which he attached various portfolio account statements, rather than completing the Schedule A on which investments, and information about those investments, is required to be reported.

On February 26, 2002, Emily Bowden, of the FPPC’s SEI Unit, sent a letter to Respondent which explained that attaching brokerage statements did not properly satisfy his disclosure requirements. Ms. Bowden also enclosed blank schedule forms for Respondent to complete and return to the Medical Board of California by March 18, 2002, as an amendment to the SEI he had filed.

On March 4, 2002, the FPPC received a copy of an undated letter signed by Respondent. Attached to that letter was a letter of resignation from the DEC, dated February 6, 2002. The undated letter, addressed “To Whom It May Concern,” stated that since Respondent would not be associated with any program of the State of California, Respondent saw “no reason to submit financial disclosure.” Respondent did not comply with Ms. Bowden’s request that he amend his SEI to properly disclose his economic interests.

By failing to disclose reportable economic interests on his assuming office SEI, filed on December 26, 2001, Respondent violated section 87300.

Respondent subsequently filed an amendment to his assuming office SEI, in conjunction with reaching this settlement, disclosing his reportable economic interests.

CONCLUSION

This matter consists of two counts of violating section 87300, which carries a maximum administrative penalty of Ten Thousand Dollars (\$10,000.00). Under the SEI Expedited Procedures adopted by the Commission in July, 1999, the approved administrative penalty for an SEI non-filer who does not file a delinquent statement of economic interests until after being

contacted by an Enforcement Division investigator is between Two Hundred and Three Hundred Dollars (\$200-\$300) per count. A person who does not file a delinquent statement of economic interests until after being contacted by an Enforcement Division investigator, and then by an Enforcement Division attorney, is between Four Hundred and Six Hundred Dollars (\$400-\$600) per count.

In this matter, Respondent filed his delinquent assuming office SEI within 30 days of being contacted by an Enforcement Division investigator, but he failed to properly disclose his economic interests on that statement, and only made a proper disclosure after being contacted by a member of the FPPC's SEI Unit and an Enforcement Division attorney. As Respondent's conduct does not fit within the parameters of the SEI expedited program, it is not appropriate to handle this case under the program.

Nonetheless, as Respondent's failure to timely disclose his interests appears to be the product of his simply not wanting to be burdened by the requirement, rather than the product of an attempt to hide his interests, and he has now properly disclosed all of his interests, a penalty not far above the penalties imposed under the expedited program appears appropriate.

Accordingly, an administrative penalty in the amount of One Thousand Dollars (\$1,000) is justified.